

SUPREME COURT OF ARKANSAS

No. CR05-1407

CHRISTOPHER NEWTON WHITE,
APPELLANT,

VS.

STATE OF ARKANSAS,
APPELLEE,

Opinion Delivered December 14, 2006

SUPPLEMENTAL OPINION DENYING
PETITION FOR REHEARING AND
GRANTING MOTION TO STAY.

JIM GUNTER, Associate Justice

Appellant, Christopher Newton White, was convicted on two counts of rape, a class Y felony and a violation of Ark. Code Ann. § 5-14-103 (Supp. 2005), of his two biological daughters. We affirmed the convictions in *White v. State*, ___ Ark. ___, ___ S.W.3d ___ (Nov. 2, 2006). On November 15, 2006, appellant filed a petition for rehearing, alleging that this court failed to address his argument that the rape-shield statute as applied to these particular facts is unconstitutional because it prevented him from presenting a defense. Appellant also filed a motion for stay of the mandate in order to petition for a writ of certiorari in the United States Supreme Court on November 15, 2006. On November 17, 2006, the State filed a response to appellant's petition for rehearing.

We deny appellant's petition for the following reasons. First, appellant fails to call to our attention any "specific errors of law or fact that the opinion is thought to contain." Ark. Sup. Ct. R. 2-3(g) (2006). Second, appellant failed to develop his constitutional

argument in his appeal. In his briefs, he argued that the circuit court's ruling to exclude 404(b) evidence violated his constitutional right to present a defense. For this proposition, appellant cited in particular the United States Supreme Court cases of *Chambers v. Mississippi*, 410 U.S. 284 (1973), *Davis v. Alaska*, 415 U.S. 308 (1974), and *Crane v. Kentucky*, 476 U.S. 683 (1986). However, appellant failed to provide any analysis of his constitutional argument other than these case citations and a basic explanation of the United States Supreme Court's holdings. Moreover, appellant stated in his brief that his constitutional argument was discussed more fully in point two, which involved the admissibility of "prejudicial testimony," but he never developed the argument in that portion of his brief. We have repeatedly held that we will not consider an argument, even a constitutional one, if the appellant makes no convincing argument or cites no authority to support it, and it is not apparent without further research that the appellant's argument is well taken. *See, e.g., Talbert v. State*, ___ Ark. ___, ___ S.W.3d ___ (Sept. 21, 2006).

We further note that these aforementioned cases are inapposite because, as appellant suggests in his brief, they are "interpreted to mean that only irrelevant evidence may be excluded under rape shield." We held in *White, supra*, after applying the factors enunciated in *State v. Townsend*, ___ Ark. ___, ___ S.W.3d ___ (Apr. 13, 2006), to the facts of this case, that the circuit court properly excluded the 404(b) evidence as irrelevant. Thus, we abide by the holding in our opinion.

For the foregoing reasons, we deny appellant's petition for rehearing, and we grant his motion for stay of the mandate to allow him to file a petition for writ of certiorari with the United States Supreme Court.

IMBER and DICKEY, JJ., not participating.